

The Fiscal and Human Cost of Jail Expansion in Benton County

Committee of the Whole
Meeting
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Vera Institute of Justice

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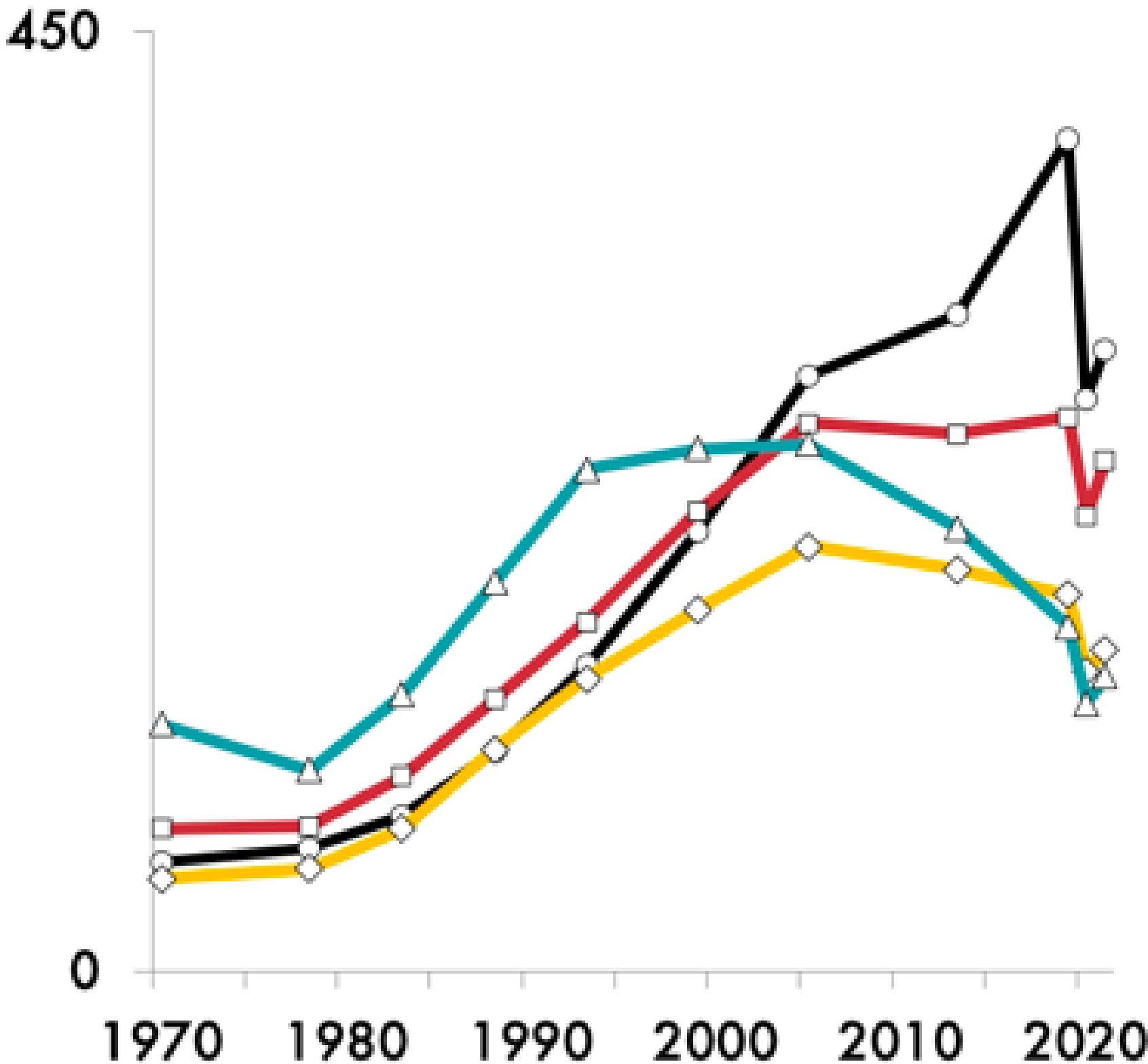
About Vera

Founded in 1961, the Vera Institute of Justice is a justice change agent. We work to tackle the most pressing injustices of our day—from ending mass criminalization and incarceration, addressing racial disparities, reckoning with the loss of public confidence in our justice systems, to meeting the needs of justice-involved people who are vulnerable and marginalized.



Jail incarceration's continued climb in small town America is eroding national progress toward ending mass incarceration.

Smaller cities and rural counties have the highest incarceration rates.



**Local Jail Rate
Per 100k Residents
From 1970-Late 2020
By Urbanicity**

- Rural Counties
- Small / Mid Metro Areas
- ◇ Suburban Counties
- △ Urban Counties

Local Jails: The real scandal is the churn

When talking about the societal impact of jails, the average daily population of 547,000 is far less important than the staggering number — over 10 million — admitted to jails in a typical year.

What does more than 10 million jail admissions look like?



It's enough people to fill a line of prison buses bumper-to-bumper from New York City to San Francisco.

Jail Spending in Benton County

At **\$60** per day, it costs the county an annual

\$21,900

per incarcerated person

*in 20xx costs, per the Benton County Jail Audit

- Capital costs typically make up less than 10 percent of overall jail costs
- Expansion projects nearly always surpass original budgets
- Most counties spend a significant share of their budget on jail operations, often at the cost of vital community resources
- Staffing challenges will be exacerbated by expansion

The Problem with Jail Study Projections

“...long-term forecasts of two years or greater are fatally flawed and have little empirical accuracy. Long-term forecasts of local jail bed needs are useful, though, as policy catalysts to encourage policymakers to consider possible long-term impacts of current decisions, but forecasts should be thought of and presented as one possible future scenario rather than a likely reality.”

- Ray Surette, Brandon Applegate, Bernard McCarthy and Patrick Jablonski, “Self-destructing prophecies: Long-term forecasting of municipal bed need,” Journal of Criminal Justice.

Incarceration Harms Communities



- After spending time in jail or prison, people have lower earnings, lower annual employment, and lower economic mobility
- Nationwide, 54% of people behind bars are parents with minor children, 16% of children in Arkansas will have at least one incarcerated parent

PRETRIAL DETENTION ≠ PUBLIC SAFETY

Kentucky

Mandatory release for misdemeanors since 2017, expanded in 2020 to include non-violent felonies

8% Re-arrest rate in 2019

11% Re-arrest rate in 2020

.5% Re-arrest rate for violent felonies

 Jail population decreased by 12%

New Jersey

Eliminated money bail in 2012, only detains **5.7%** of pretrial defendants

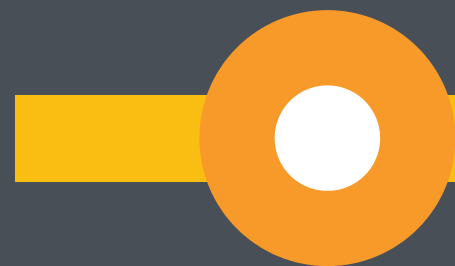
13% Re-arrest rate for indictable & disorderly offenses

.4% Re-arrest rate for serious charges

 Jail population decreased by 50%

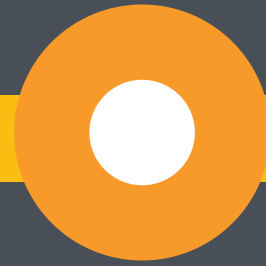
The Criminal Court Process

Initial Interaction



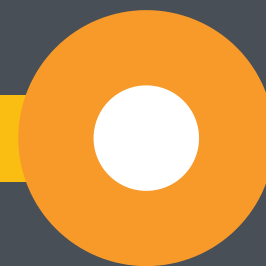
Law enforcement
arrests the person

Booked into Jail



Person is booked
into the jail. The
Sheriff may
release some
people

Bail Hearing



Person appears
before a Judge
and their bail is
set

Release or Detention

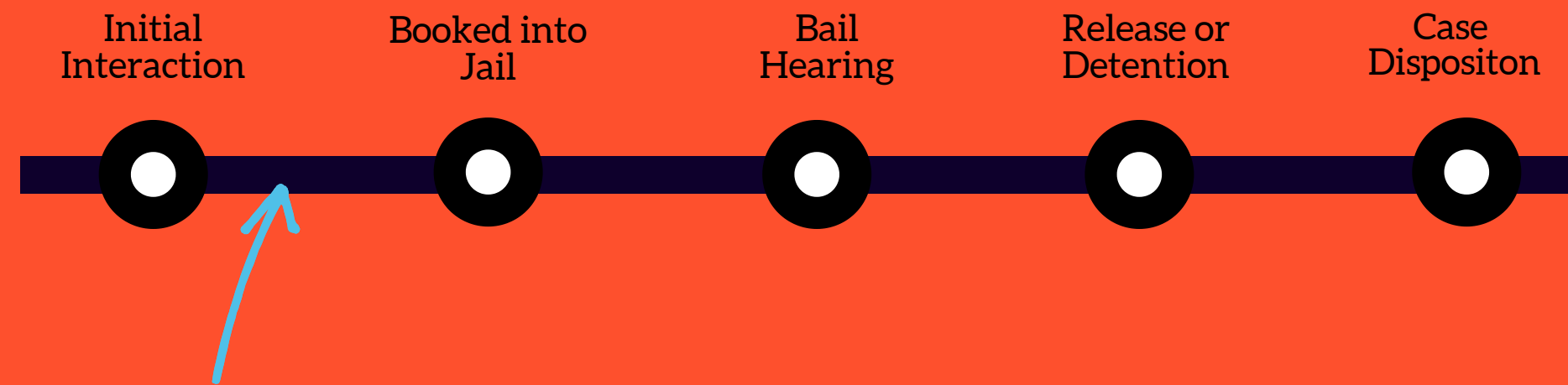


Person pays their
bail and goes
home or remains in
jail

Case Disposition



Trial, Guilty Plea
or Dismissal



Pre-Booking Alternatives

Summons in Lieu of Arrest

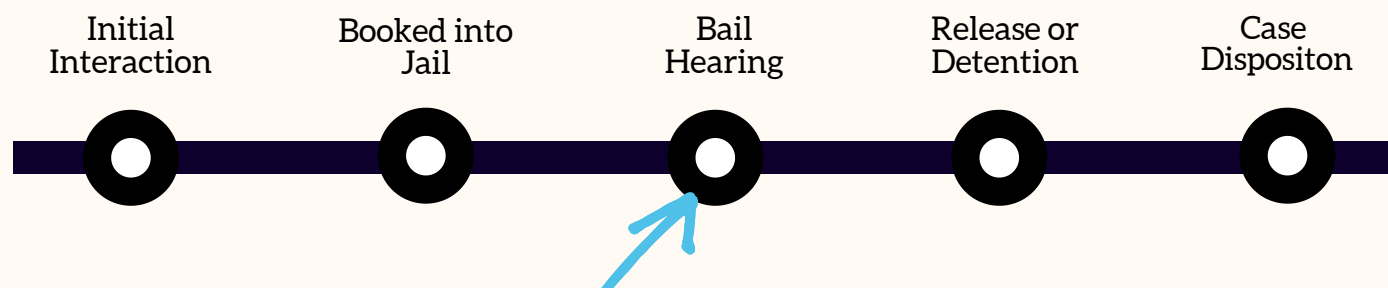
Arkansas Rule of Criminal Procedure 5.2 gives law enforcement the authority to issue a citation for any misdemeanor crime (or felony with prosecution approval) rather than remanding people to custody

Automatic Release for Certain Charges

- Can be implemented by judicial rule or policy implemented by the District Attorney
- Most effective when coupled with other supports (texts, rides, etc)

Let's talk about bail

- Bail is a Constitutional Right
- Under Arkansas Rule of Criminal Procedure 9.2, bail should be set "only after he (the judicial officer) determines that no other conditions will reasonably ensure the appearance of the defendant in court."
- Bail Hearings must meet certain constitutional standards:
 - Shortly after arrest
 - Both sides must be represented by counsel
 - Judges must make an individual determination into ability to pay
 - Finding on the record that no other condition or set of conditions will ensure appearance or that the person presents an articulable risk of harm to another person



Types of Bail

Release on Recognizance

Person is
released
without
conditions
or
collateral.

Unsecured Bond

Person
promises to
appear in
court, and to
pay a certain
amount if
they do not
appear.

Cash Deposit

Person must
pay 10% of
bond
amount
directly to
court in cash
to secure
release.

Cash or Surety

Person must
pay full amount
in cash, put up
property as
collateral, or
pay a bail
bondsmen 10%
or more of total
bond amount to
secure release.

Cash Bond

Person must
pay full
amount in
cash directly
to the court
to secure
release.

Money bail does not promote public safety

- A Kentucky study found that when people are detained for just 2-3 days they are **40 percent more likely to be arrested for a new offense** in the pretrial period than those released in under 24 hours
 - Those detained more than a month were **74 percent** more likely to be rearrested than those who had been released within 24 hours
- A Pennsylvania study found that the imposition of money bail led to a **6-9 percent** increase in the likelihood that a person would be rearrested

MONEY BAIL IS NOT NECESSARY TO ENSURE COURT APPEARANCE

Harris County, TX

Implemented pretrial reform in 2019

65% Misdemeanant defendants
released before the bail hearing

93% Return to court

92% given money bail --> **14%**

New Jersey

Eliminated money bail in 2012, only
detains 5.7% of pretrial defendants

93% Released without cash bail

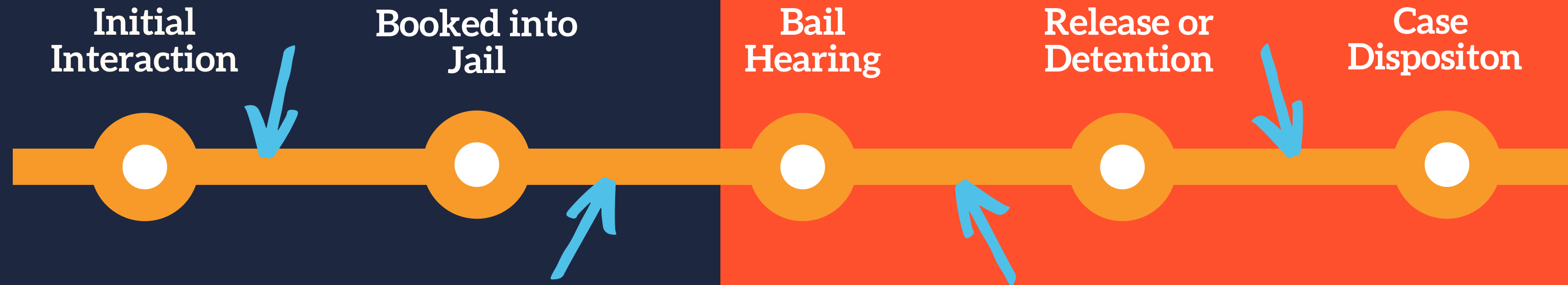
90% Court appearance rate

The Failure to Appear Fallacy

- A study on pretrial release conducted by the Bureau of Justice Statistics found that more than **75 percent** of people show up for all their court dates
- Of the minority that missed at least one appearance, **94 percent** appeared within one year of the missed court date

Defining Risk of Non-Appearance





Alternatives to Jail

- **An Efficient Court System**

- Uniform intake and evaluation, pre-arraignment case reviews, regular bond review hearings

- **Mental & Behavioral Health Supports**

- Crisis stabilization units, sobering centers, diversion, expansion of treatment courts

- **Housing & Workforce Development**

- Housing for all, workforce initiatives

- **Resources for Law Enforcement**

- Co-responder models

County-Level Pretrial Services

- In jurisdictions that have implemented a supportive services model, the primary mandated pretrial release conditions are to appear for court and avoid new arrests during the pretrial period
- Pre-arraignment review teams create individualized case plans for pretrial release
 - High court appearance rates and low rearrest rates, especially for violent offenses
 - Onerous conditions of pretrial release, however, such as electronic monitoring, drug testing, and extensive programming are advised against as they expose people to more, not less, pretrial failure

In Custody Review Docket

- Review "In Custody" docket each week with representative from the court and the District Attorney's Office and Public Defender's Office
- File bond reductions for anyone still in jail after 48 hours, unless court makes finding on the record that bond should not be reduced to an "in-excessive" amount
- Set bail at zero dollars for people arrested on eligible offenses who have indigent status, and conduct meaningful inquiry into ability to pay for non-indigent individuals

Crisis Stabilization Unit & Crisis Response Teams

Models



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graph LR; A[POLICE-BASED] --> B[CO-RESPONSE]; B --> C[COMMUNITY-BASED];
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POLICE-BASED

CO-RESPONSE

COMMUNITY-BASED

Sobering and Detox Center

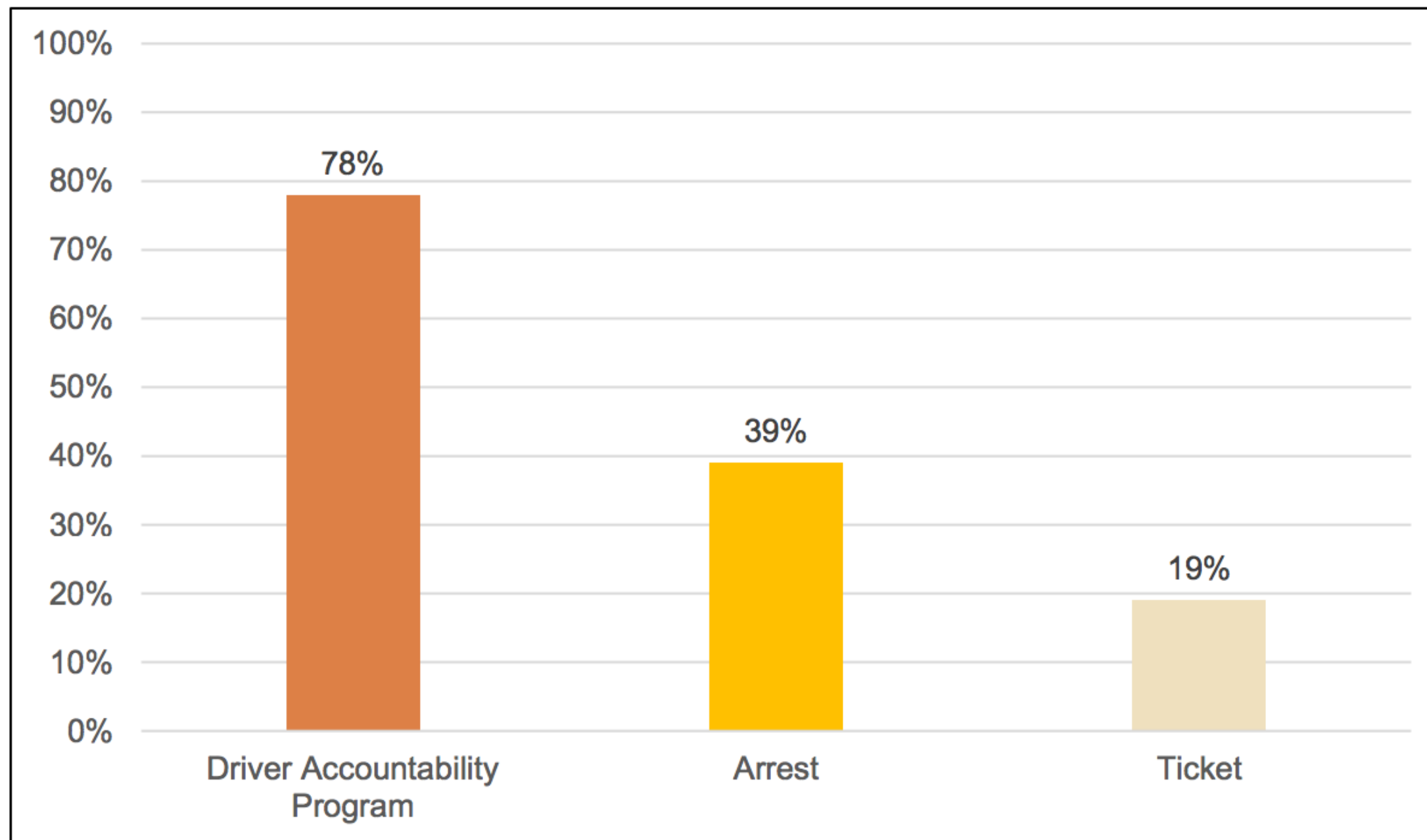
- 8-12 hours safe sobering space
- Voluntary referral to services
- Saves officer and jail staff resources

Driver Accountability Program

- One-session group intervention available to individuals arrested for driving-related incidents
- Emphasizes the importance of public education and individual accountability to combat dangerous driving and driving-related fatalities

Driver Accountability Program Most Effective at Changing Risky Driving Behavior

Figure 3.1. Most Participants Believe their Driving Changed and Attributed at Least Part of that Change to the Program (N=73)



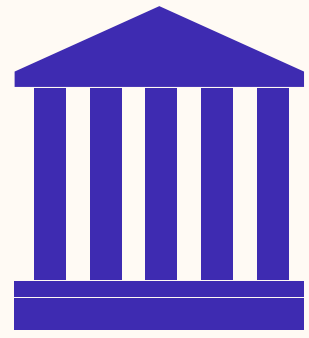
Housing and Workforce Development

- Formerly incarcerated people are almost 10% more likely to experience homelessness than the general population
- Intentional investment in a second chance workforce

Resources for Law Enforcement

- On-call social workers or co-responder models with mental health professionals and/or people with lived experience
- De-escalation training
- Counseling services

To increase public safety communities can invest in a fair, efficient court system, community-based substance use disorder and mental health treatment, safe and stable housing for all, and increased resources for law enforcement.



- Constitutionally adequate bail hearings
- Robust pretrial services
- Holistic indigent defense
- Bond reviews and warrant clearing dockets
- Improved communication



- Crisis Stabilization Units
- Sobering Centers
- Peer Recovery Specialists
- Pre-arrest and pre-trial diversion for people with behavioral health needs



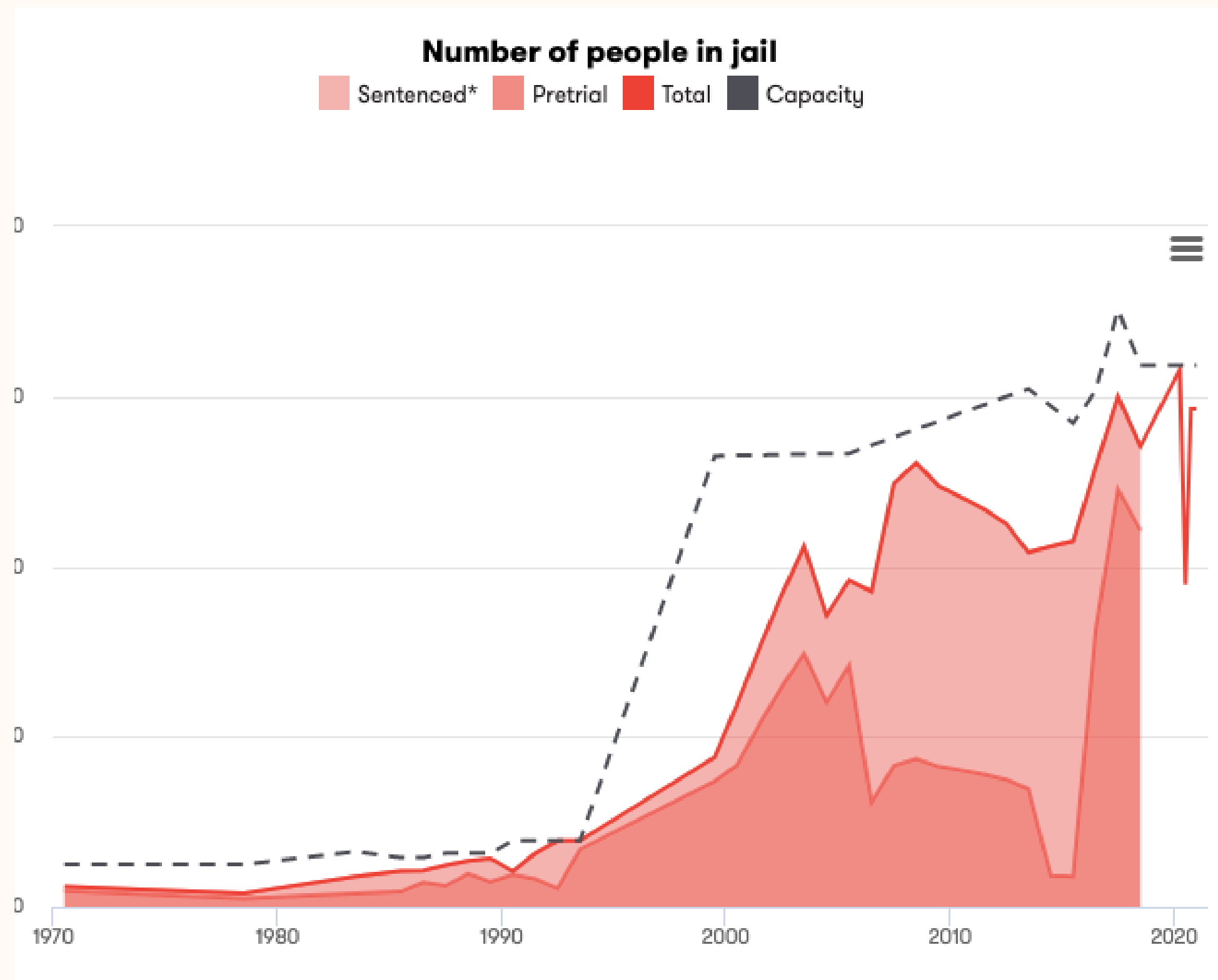
- Resource hubs in shelters
- Housing for people with a criminal record
- Workforce development opportunities



- Co-responder models that integrate social workers and/or people with lived experience
- De-escalation training
- Counseling services for officers

Reduction is possible

Jail population declined by **60 percent** from 637 people in jail in the beginning of 2020 to 379 people in jail by mid-2020.



Thank you.

Vera



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